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EXAMINER

GOTTSCHALK, MARTIN A

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHIHIRO HAZUMI

Appeal 2009-010370
Application 09/864,261
Technology Center 3600

Before: MURRIEL E. CRAWFORD, HUBERT C. LORIN, and JOSEPH A. FISCHETTI, *Administrative Patent Judges.*

CRAWFORD, *Administrative Patent Judge.*

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal from the final rejection of claims 2, 8, 10, 14, 16, 18, 22, 25, 26, and 28-30. We have jurisdiction to review the case under 35 U.S.C. §§ 134 and 6 (2002).

The claimed invention is directed to electronic medical information managements systems and related methods in which a medical practitioner and a small hospital, which have some difficulty to organize introducing and operating a large electronic medical record information management system, can use an electronic medical record in high security (Spec. 1:2-7). Claim 2, reproduced below, is further illustrative of the claimed subject matter.

2. An electronic medical record information management system, comprising:

at least one electronic medical record information managing means;

a plurality of electronic medical record showing means;
and a communication network that connects the at least one electronic medical record information managing means to said plurality of electronic medical record showing means,

wherein:

each of said plurality of electronic medical record showing means comprises:

a first communication unit for connecting to said communication network; and

at least one first electronic medical record terminal that makes electronic medical records of patients and transmits said electronic medical records to said electronic medical record information managing means through said first communication unit and said communication network, and makes a request to transmit one or more of said electronic medical records stored in said electronic medical record information managing means, and transmits said request to said electronic medical record information managing means through said first communication unit, and shows one or more of said electronic medical records transmitted from said electronic medical record information

managing means, and
said electronic medical record information managing
means comprises:

a second communication unit for connecting to said
communication network;

an electronic medical record storer that stores said
electronic medical records that were transmitted from said
electronic medical record showing means; and

a control server that obtains one or more of said
electronic medical records stored in said electronic medical
record storer, and transmits the obtained one or more of said
electronic medical records to said electronic medical record
showing means through said second communication unit,

wherein:

said at least one first electronic medical record terminal
further includes means for adding information to each of said
electronic medical records and means for transmitting said
electronic medical records having the added information to said
electronic medical record information managing means through
said first communication unit, and said control server further
makes said electronic medical record storer store said electronic
medical records received from said electronic medical record
showing means through said second communication unit, and

said control server judges whether a user who transmitted
said request is a user who has a second access right or not, and
when said user has said second access right, said control server
makes said electronic medical record storer store said electronic
medical records.

The references of record relied upon by the Examiner as evidence of
obviousness are:

Ross
Wallace

US 5,823,948
US 6,564,121 B1

Oct. 20, 1998
May 13, 2003

Claims 2, 8, 10, 14, 16, 22, 25, 26, and 30 stand rejected under 35 U.S.C. § 102(b) as anticipated by Ross; and claims 18, 28, and 29 stand rejected under 35 U.S.C. § 103(a) as obvious over Ross in view of Wallace.

We AFFIRM.

ISSUES

Did the Examiner err in asserting that Ross anticipates the subject matter of claims 2, 8, 10, 14, 16, 22, 25, 26, and 30?

Did the Examiner err in asserting that a combination of Ross and Wallace renders obvious the subject matter of claims 18, 28, and 29?

FINDINGS OF FACT

We adopt the Examiner's Findings of Fact, as set forth on pages 5-19 of the Examiner's Answer.

ANALYSIS

For the reasons set forth on pages 14-17 of the Examiner's Answer, we are not persuaded that the Examiner erred in asserting that Ross anticipates the subject matter of claims 2, 8, 10, 14, 16, 22, 25, 26, and 30 (App. Br. 11-13; Reply Br. 4-6). Additionally, Appellants assert that Ross does not disclose that "the user must first transmit the request, and only then the user's access rights are determined" (App. Br. 12, 13). However, there is no such temporal limitation in the claim. *See CollegeNet, Inc. v. ApplyYourself, Inc.*, 418 F.3d 1225, 1231 (Fed. Cir. 2005) (while the specification can be examined for proper context of a claim term, limitations from the specification will not be imported into the claims).

For the reasons set forth on pages 17-19 of the Examiner's Answer, we are also not persuaded that the Examiner erred in asserting that a combination of Ross and Wallace renders obvious the subject matter of dependent claims 18, 28, and 29 (App. Br. 14-16; Reply Br. 6-8). Wallace is only cited for encryption. While Wallace may not favor centralized systems, there is nothing in Wallace to suggest that the use encryption on centralized systems such as Ross would not be technically feasible. We also agree with the Examiner that the stated rationale for adding encryption to the identity verification system of Ross, to further the secure transmission of patient data over a network, would outweigh any minimal efficiency losses due to encryption/decryption processes.

We AFFIRM the Examiner's 35 U.S.C. §§ 102(b) and 103(a) rejections.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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